



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

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DATE: February 24, 2004

TO: Assessors
Equalization Directors

FROM: State Tax Commission (STC)

SUBJECT: Pay-to-Hunt Operations

The purpose of this memo is to inform assessors and equalization directors about the decision of the Michigan Tax Tribunal (MTT) in *Huron Bay Lodge v Arvon Township, Docket No. 282654*. This decision addresses the question of whether a pay-to-hunt deer farm qualifies for the Qualified Agricultural Property Exemption from the 18 mills of local school operating taxes. The Tribunal ruled that it did not. It is not yet known whether this decision will be appealed to the Michigan Court of Appeals. A copy of the decision will be on the MTT Web site at www.michigan.gov/cis. When you reach the site, click on **Hearings, Appeals, & Mediation** and then click on **Tax Tribunal Decisions**.

STC Bulletin No. 4 of 1997, as supplemented by STC Bulletin No. 8 of 2001, addresses the administration of the Qualified Agricultural Property Exemption. You may retrieve these bulletins from the Treasury Department Web site by clicking on the highlighted bulletin number above. Paragraphs 1 and 2 below provide background for the decision in the *Huron Bay Lodge* case.

1) **2 Groups of Qualified Agricultural Properties**

Page 3 of STC Bulletin No. 4 of 1997 discusses 2 groups of Qualified Agricultural Properties. The first group consists of those properties which are classified by the assessor as agricultural on the assessment roll (under MCL 211.34c). The second group consists of those properties NOT classified as agricultural but which are Qualified Agricultural Properties because more than 50% of their acreage is devoted to an agricultural use (as defined by law).

IMPORTANT NOTE: The STC, at its meeting on November 20, 2000, ruled that the Huron Bay Lodge property was properly classified as commercial real property.

2) **Properties NOT CLASSIFIED as Agricultural**

Paragraph B, starting on page 4, of STC Bulletin No. 4 of 1997 discusses those properties which are Qualified Agricultural Properties even though they are NOT classified agricultural. These are properties which are devoted primarily to **agricultural use** (as defined in PA 451 of 1994 and AMENDED BY PA 262 of 2000) because they meet the 50% test described on pages 5 and 6 of STC Bulletin No. 4 of 1997.

The following is the definition of "Agricultural Use" as contained in PA 451 of 1994 and amended by PA 262 of 2000.

"Agricultural use" means the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, **including breeding and grazing of cattle, swine, captive cervidae**, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agricultural use does not include the management and harvesting of a woodlot. (emphasis added)

The STC stated the following in Bulletin No. 4 of 1997 regarding the term "breeding and grazing of ... captive cervidae" and its application to pay-to-hunt ranches:

Cervidae is defined as a group of animals which includes deer, elk, and moose.

The breeding and grazing of captive cervidae includes farms where cervidae are raised for the same or similar purposes as are customary in the breeding and grazing of other animals such as cattle. The breeding and grazing of captive cervidae does NOT include properties used primarily as hunting ranches where customers pay a fee to hunt animals.(Emphasis removed)

Michigan Compiled Law 211.7dd(d) specifically states that "Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not qualified agricultural property." Whether or not property is classified agricultural, it is not entitled to the Qualified Agricultural Property exemption if the property is used for a commercial purpose.

3) **The MTT Decision in *Huron Bay Lodge v Arvon Township*, Docket No. 282654**

Huron Bay Lodge appealed a 2001 determination by Arvon Township that its property did not qualify for the Qualified Agricultural Property Exemption from the 18 mills of local school operating tax. Huron Bay Lodge argued that its property (which was classified commercial) fit the definition of agricultural use and should receive the exemption because it met the 50% test described on pages 5 and 6 of STC Bulletin No. 4 of 1997.

The MTT ruled that the Huron Bay Lodge property did NOT qualify for the Qualified Agricultural Property Exemption.

The following are quotes from the MTT decision:

The business of the Huron Bay Lodge, Inc. ... was to provide lodging accommodations, food service, guides and butchering, and to make the captive cervidae available for recreational hunting. This endeavor required the presence of whitetail deer, elk, red deer, and swine on the subject property on which the whitetail deer and swine were evidently being bred.

The providing of lodging, food service, hunting guides, skinning and caping of 'trophy,' cooler facility, and butchering services are not agricultural but commercial in nature.

Petitioner presented no evidence whatsoever to demonstrate that more than 50% of the subject property was devoted primarily to agricultural use, assuming any of it is.

The Tribunal finds that any breeding and grazing of elk, deer and swine on the subject property ... was purely secondary and incidental to the primary purpose of these animals' presence on Petitioner's property, that being for the recreational operations being conducted, which allowed for hunting the captive cervidae for sport and to attract customers to the commercial lodge, food service, guide service, and pay-to-trophy-hunt operation being conducted by Petitioner.

IMPORTANT NOTE: The MTT also stated in its decision that its prior decision in *State Tax Commission v Big Creek Shooting Preserve*, Docket No. 234874 was a small claims matter which was non-precedential and was not considered in the *Huron Bay Lodge v Arvon Township* case.

IMPORTANT NOTE: It is the position of the State Tax Commission that the March Board of Review has authority to rule on a Qualified Agricultural Property exemption **only** when the matter involves the denial by the assessor of CONTINUATION of the prior year's exemption. Please see STC Bulletin 4 of 2004. Denial by the assessor of continuation of the prior year's exemption includes cases where the exemption is removed completely by the assessor and cases where the percentage of property entitled to the exemption is reduced as compared to the prior year.